

REMARKS

Claims 1-23 are currently pending in this application. Claim 12 has been amended for the Examiner's consideration. The Applicant submits that no new matter has been introduced and support for the amended claim may be found at least on page 8. In view of the above amendments and the following Remarks, Applicant respectfully requests reconsideration and timely withdrawal of the pending objections and rejections for the reasons discussed below.

Rejections under 35 U.S.C. § 102

Claims 1-3, 5 and 7-9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,772,754 issued to Mendenhall ("the Mendenhall reference"). Applicant respectfully traverses this rejection for at least the following reasons.

The Mendenhall reference is cited by the Examiner on page 3 of the Office Action for at least disclosing:

...a nebulizer outflow path 8 disposed within the conduit 16 configured to communicate with a nebulizer and top flow path, wherein the nebulizer out-flow path is separate from the nebulizer in-flow path.

The Examiner's characterization of the Mendenhall reference is not accurate. In the Mendenhall reference, the nebulizer out-flow path, e.g., feeding tube 29, which is responsible for diverting the flow of compressed gas from the nebulizer (i.e., the nebulizer out-flow) to the housing, is positioned outside of the conduit configured to communicate with the nebulizer. *See* Figure 7 of the Mendenhall reference. In contrast, the claimed invention recites that a nebulizer out-flow path is disposed within the conduit configured to communicate with the nebulizer top flow path.

Therefore, the Mendenhall reference is inadequate as an anticipatory reference because it fails to teach each and every limitation of the claimed invention.

Also, claims 2, 3, 5 and 7-9 have their dependencies originating from base claim 1. These claims are also distinguishable over the Mendenhall reference for the reasons set forth above. Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(e) rejection of claims 1-3, 5 and 7-9.

Rejections Under 35 U.S.C. § 103

Claims 12 and 15-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the Mendenhall reference in view of U. S. Patent No. 6,679,250 issued to Walker et al., (“the Walker reference”). Applicant respectfully traverses this rejection for at least the following reasons.

As discussed above, the Mendenhall reference fails to disclose or suggest the hollow body and a baffle which defines an air flow path having portions parallel to one another through the interior of the hollow body (claim 12). Indeed, the Examiner admits on page 4 of the Office Action that

Mendenhall discloses the applicant’s invention as claimed with the exception of providing a baffle that comprises a substantially planar member disposed between the intake flow path and the delivery flow path.

Next, the Walker reference is cited for disclosing

a combination inhalation therapeutic and exhalation measuring device that does provide a baffle at least partially disposed within the hollow body.

Office Action at page 4.

However, the Walker reference does not disclose or suggest a hollow body and a baffle which defines an air flow path having portions parallel to one another through the interior of the hollow body. In the Walker reference, the baffle is a “lightly biased, movable baffle or diaphragm which moves within the chamber in accordance with the flow rate of breath exhaled into the chamber.” Walker reference at column 3, lines 27-30. This baffle is not a baffle which defines an air flow path having portions parallel to one another through the interior of the hollow body as recited in the claimed invention. Thus, even if the references were combined, they do not result in the drug delivery mouthpiece of the claimed invention.

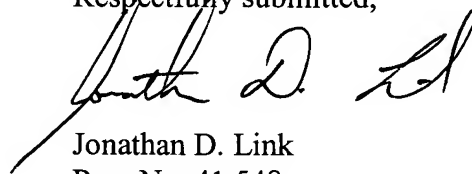
Accordingly, Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection of claims 12 and 15-22. Since the none of the other prior art of record, whether taken alone or in any combination, discloses or suggests all the features of the claimed invention, Applicant respectfully submits that independent claim 12, and all the claims that depend therefrom are allowable.

CONCLUSION

Applicant submits that a full and complete response has been made to the pending Office Action and respectfully submits that all of the stated objections and grounds for rejection have been overcome or rendered moot. Accordingly, Applicant respectfully submits that all pending claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is thus respectfully requested to pass the above application to issue.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the Applicant's undersigned representative at the number below to expedite prosecution. Prompt and favorable consideration of this Reply is respectfully requested. Applicant respectfully requests that a timely Notice of Allowance be issued for this application.

Respectfully submitted,



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